

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,
Plaintiff,
v.
JOHNTAE DARNELL BLAND,
Defendant.

Case No. 2:18-cr-295-APG-GWF

**ORDER DENYING EMERGENCY
MOTION FOR REDUCTION OF
SENTENCE**

(ECF No. 56)

Defendant Johntae Darnel Bland pleaded guilty to distributing methamphetamine. ECF No. 52. I sentenced him to 65 months in prison and three years of supervised release. *Id.* He has served approximately one-third of that custodial sentence. He now seeks immediate release from custody under the “compassionate release” statute because he contracted COVID-19 while he was incarcerated. ECF No. 56. The Government opposes release, primarily because Bland has tested positive for COVID-19 and his health appears to be reverting back to his pre-infected state. ECF No. 64.

The compassionate-release provision of 18 U.S.C. § 3582(c)(1)(A)(i) allows me to reduce sentence based on “extraordinary and compelling reasons.” I must consider the factors in 18 U.S.C. § 3553(a) “to the extent that they are applicable,” and any sentence reduction must be consistent with applicable policy statements issued by the Sentencing Commission,” including the requirement that the defendant “is not a danger to the safety of any other person or to the community.” *Id.* (referring to U.S.S.G. § 1B1.13(2)).

The COVID-19 pandemic presents a risk to all incarcerated people. It also presents a risk to citizens who are not incarcerated. The Bureau of Prisons (BoP) is taking steps to treat and prevent the spread of the virus at FCI Victorville Medium I where Bland is housed. While its efforts have not been completely successful, no person or entity has yet discovered a cure or

1 vaccine for the virus. Once Bland was diagnosed, he was treated and his vital signs have
2 returned to normal. ECF No. 57 at 4. Even if he develops some longer-lasting health effects
3 (e.g., anxiety, *see id.*), there is no evidence the BoP can't treat those. I do not find Bland's
4 situation to be an "extraordinary or compelling circumstance" that warrants his release.

5 Even if I could so find, I would deny Bland's motion based on the § 3553(a) factors.
6 Bland has over 15 misdemeanor convictions and three felony conviction. He was on probation at
7 the time he committed this crime. Several bench warrants have been issued for his failure to
8 appear for court hearings, leading to numerous arrests. He has demonstrated an unwillingness to
9 comply with court procedures, which suggests he would not comply with the significant
10 limitations I would impose on him if I were to order him released at this time.

11 During sentencing, I evaluated the § 3553(a) factors and concluded Bland was entitled to
12 a 19-month downward variance. I have re-examined those factors and my analysis has not
13 changed simply because he contracted COVID-19. A further reduction in his sentence would
14 defeat the deterrent effect that I intended, ignore Bland's criminal history and characteristics, and
15 create an unwarranted sentencing disparity.¹ Nothing convinces me he is entitled to a further
16 reduction of his sentence.

17 I THEREFORE DENY the defendant's motion for reduction of his sentence (ECF No.
18 56).

19 Dated: August 27, 2020.


20 Andrew P. Gordon
21 UNITED STATES DISTRICT JUDGE

22 ¹ Bland argues that he "is no more culpable than a defendant who was convicted and
23 completed his sentence before COVID-19." ECF No. 56 at 29. True, but nor is he less culpable
than such a defendant, and he should not get a significantly reduced sentence simply because he
contracted COVID-19.